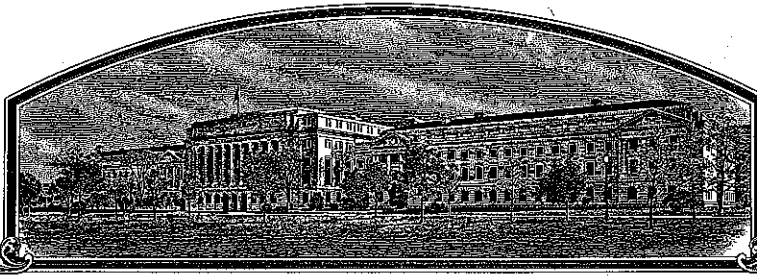


No.

200400259



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Seminis Vegetable Seeds, Inc.

Whereas, THERE HAS BEEN PRESENTED TO THE

Secretary of Agriculture

AN APPLICATION REQUESTING A CERTIFICATE OF PROTECTION FOR AN ALLEGED DISTINCT VARIETY OF SEXUALLY REPRODUCED, OR TUBER PROPAGATED PLANT, THE NAME AND DESCRIPTION OF WHICH ARE CONTAINED IN THE APPLICATION AND EXHIBITS, A COPY OF WHICH IS HEREUNTO ANNEXED AND MADE A PART HEREOF, AND THE VARIOUS REQUIREMENTS OF LAW IN SUCH CASES MADE AND PROVIDED HAVE BEEN COMPLIED WITH, AND THE TITLE THERETO IS, FROM THE RECORDS OF THE PLANT VARIETY PROTECTION OFFICE, IN THE APPLICANT(S) INDICATED IN THE SAID COPY, AND WHEREAS, UPON DUE EXAMINATION MADE, THE SAID APPLICANT(S) IS (ARE) ADJUDGED TO BE ENTITLED TO A CERTIFICATE OF PLANT VARIETY PROTECTION UNDER THE LAW.

NOW, THEREFORE, THIS CERTIFICATE OF PLANT VARIETY PROTECTION IS TO GRANT UNTO THE SAID APPLICANT(S) AND THE SUCCESSORS, HEIRS OR ASSIGNS OF THE SAID APPLICANT(S) FOR THE TERM OF TWENTY YEARS FROM THE DATE OF THIS GRANT, SUBJECT TO THE PAYMENT OF THE REQUIRED FEES AND PERIODIC REPLENISHMENT OF VIABLE BASIC SEED OF THE VARIETY IN A PUBLIC REPOSITORY AS PROVIDED BY LAW, THE RIGHT TO EXCLUDE OTHERS FROM SELLING THE VARIETY, OR OFFERING IT FOR SALE, OR REPRODUCING IT, OR IMPORTING IT, OR EXPORTING IT, OR CONDITIONING IT FOR PROPAGATION, OR STOCKING IT FOR ANY OF THE FOREGOING PURPOSES, OR USING IT IN PRODUCING A HYBRID OR DIFFERENT VARIETY THEREFROM, TO THE EXTENT PROVIDED BY THE PLANT VARIETY PROTECTION ACT. (84 STAT. 1542, AS AMENDED, 7 U.S.C. 2321 ET SEQ.)

PEPPER

'SBY281172'

In Testimony Whereof, I have hereunto set my hand and caused the seal of the Plant Variety Protection Office to be affixed at the City of Washington, D.C. this third day of November, in the year two thousand and six.

Attest:

Commissioner
Plant Variety Protection Office
Agricultural Marketing Service

Secretary of Agriculture



U.S. DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
SCIENCE AND TECHNOLOGY - PLANT VARIETY PROTECTION OFFICE

APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE
(Instructions and information collection burden statement on reverse)

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552a) and the Paperwork Reduction Act (PRA) of 1995.

Application is required in order to determine if a plant variety protection certificate is to be issued (7 U.S.C. 2421). Information is held confidential until certificate is issued (7 U.S.C. 2426).

1. NAME OF OWNER Seminis Vegetable Seeds, Inc.		2. TEMPORARY DESIGNATION OR EXPERIMENTAL NAME		3. VARIETY NAME SBY281172	
4. ADDRESS (Street and No., or R.F.D. No., City, State, and ZIP Code, and Country) 2700 Camino del Sol Oxnard, CA 93030-7967		5. TELEPHONE (include area code) (805) 647-1572		FOR OFFICIAL USE ONLY <hr/> PVPO NUMBER <div style="font-size: 1.5em; font-weight: bold;">2004 00259</div> <hr/> FILING DATE June 28, 2004	
		6. FAX (include area code) (805) 918-2545			
7. IF THE OWNER NAMED IS NOT A "PERSON", GIVE FORM OF ORGANIZATION (corporation, partnership, association, etc.) Corporation		8. IF INCORPORATED, GIVE STATE OF INCORPORATION California		9. DATE OF INCORPORATION 4-Jun-1962	
10. NAME AND ADDRESS OF OWNER REPRESENTATIVE(S) TO SERVE IN THIS APPLICATION. (First person listed will receive all papers) <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> Sharen Chaffin Seminis Vegetable Seeds, Inc. 37437 State Hwy 16 Woodland CA 95695 </div> <div style="width: 45%;"> Marcel Bruins Seminis Vegetable Seeds, Inc. Nude 54D 6702 DN Wageningen The Netherlands marcel.bruins@seminis.com PH: 31 317 450218; FX 31 317 450217 </div> </div>				F E E S R E C E I V E D FILING AND EXAMINATION FEES: \$ 3652.00 DATE 6/28/04 CERTIFICATION FEE: \$ 768 + 41 DATE 10/11/06	
11. TELEPHONE (include area code) (530) 669-6172		12. FAX (include area code) (530) 666-4426		13. E-MAIL sharen.chaffin@seminis.com	
14. CROP KIND (Common Name) Sweet Pepper					
15. GENUS AND SPECIES NAME OF CROP Capsicum annum L.		16. FAMILY NAME (Botanical) SOLANACEOUS		17. IS THE VARIETY A FIRST GENERATION HYBRID? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
18. CHECK APPROPRIATE BOX FOR EACH ATTACHMENT SUBMITTED (Follow instructions on reverse) a. <input checked="" type="checkbox"/> Exhibit A. Origin and Breeding History of the Variety b. <input checked="" type="checkbox"/> Exhibit B. Statement of Distinctness c. <input checked="" type="checkbox"/> Exhibit C. Objective Description of Variety d. <input type="checkbox"/> Exhibit D. Additional Description of the Variety (Optional) e. <input checked="" type="checkbox"/> Exhibit E. Statement of the Basis of the Owner's Ownership f. Voucher Sample (2,500 viable untreated seeds or, for tuber propagated varieties, verification that tissue culture will be deposited and maintained in an approved public repository) g. <input checked="" type="checkbox"/> Filing and Examination Fee (\$3,652), made payable to "Treasurer of the United States" (Mail to the Plant Variety Protection Office)		19. DOES THE OWNER SPECIFY THAT SEED OF THIS VARIETY BE SOLD AS A CLASS OF CERTIFIED SEED? See Section 83(a) of the Plant Variety Protection Act <input type="checkbox"/> YES (If "yes", answer items 20 and 21 below) <input checked="" type="checkbox"/> NO (If "no", go to item 22)			
20. DOES THE OWNER SPECIFY THAT SEED OF THIS VARIETY BE LIMITED AS TO NUMBER OF CLASSES? <input type="checkbox"/> YES <input type="checkbox"/> NO IF YES, WHICH CLASSES? <input type="checkbox"/> FOUNDATION <input type="checkbox"/> REGISTERED <input type="checkbox"/> CERTIFIED		21. DOES THE OWNER SPECIFY THAT SEED OF THIS VARIETY BE LIMITED AS TO NUMBER OF GENERATIONS? <input type="checkbox"/> YES <input type="checkbox"/> NO IF YES, SPECIFY THE NUMBER 1,2,3, etc. FOR EACH CLASS. <input type="checkbox"/> FOUNDATION <input type="checkbox"/> REGISTERED <input type="checkbox"/> CERTIFIED (If additional explanation is necessary, please use the space indicated on the reverse.)			
22. HAS THE VARIETY (INCLUDING ANY HARVESTED MATERIAL) OR A HYBRID PRODUCED FROM THIS VARIETY BEEN SOLD, DISPOSED OF, TRANSFERRED, OR USED IN THE U. S. OR OTHER COUNTRIES? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF YES, YOU MUST PROVIDE THE DATE OF FIRST SALE, DISPOSITION, TRANSFER, OR USE FOR EACH COUNTRY AND THE CIRCUMSTANCES. (Please use space indicated on reverse.)		23. IS THE VARIETY OR ANY COMPONENT OF THE VARIETY PROTECTED BY INTELLECTUAL PROPERTY RIGHT (PLANT BREEDER'S RIGHT OR PATENT)? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF YES, PLEASE GIVE COUNTRY, DATE OF FILING OR ISSUANCE AND ASSIGNED REFERENCE NUMBER. (Please use space indicated on reverse.)			
24. The owners declare that a viable sample of basic seed of the variety has been furnished with application and will be replenished upon request in accordance with such regulations as may be applicable, or for a tuber propagated variety a tissue culture will be deposited in a public repository and maintained for the duration of the certificate. The undersigned owner(s) is(are) the owner of this sexually reproduced or tuber propagated plant variety, and believe(s) that the variety is new, distinct, uniform, and stable as required in Section 42, and is entitled to protection under the provisions of Section 42 of the Plant Variety Protection Act. Owner(s) is(are) informed that false representation herein can jeopardize protection and result in penalties.					
SIGNATURE OF OWNER 			SIGNATURE OF OWNER		
NAME (Please print or type) Sharen Chaffin			NAME (Please print or type)		
CAPACITY OR TITLE IP Specialist		DATE 6-24-04		CAPACITY OR TITLE	
				DATE	

GENERAL: To be effectively filed with the Plant Variety Protection Office (PVPO), ALL of the following items must be received in the PVPO: (1) Completed application form signed by the owner; (2) completed exhibits A, B, C, E; (3) for a seed reproduced variety at least 2,500 viable untreated seeds, for a hybrid variety at least 2,500 untreated seeds of each line necessary to reproduce the variety, or for tuber reproduced varieties verification that a viable (in the sense that it will reproduce an entire plant) tissue culture will be deposited and maintained in an approved public repository; (4) check drawn on a U.S. bank for \$3,652 (\$432 filing fee and \$3,220 examination fee), payable to "Treasurer of the United States" (See Section 97.6 of the Regulations and Rules of Practice.) Partial applications will be held in the PVPO for not more than 90 days, then returned to the applicant as unfilled. Mail application and other requirements to Plant Variety Protection Office, AMS, USDA, Room 401, NAL Building, 10301 Baltimore Avenue, Beltsville, MD 20705-2351. Retain one copy for your files. All items on the face of the application are self explanatory unless noted below. Corrections on the application form and exhibits must be initialed and dated. **DO NOT** use masking materials to make corrections. If a certificate is allowed, you will be requested to send a check payable to "Treasurer of the United States" in the amount of \$432 for issuance of the certificate. Certificates will be issued to owner, not licensee or agent.

Plant Variety Protection Office

Telephone: (301) 504-5518

FAX: (301) 504-5291

Homepage: <http://www.ams.usda.gov/science/pvpo/pvp.htm>

ITEM

- 18a. Give: (1) the genealogy, including public and commercial varieties, lines, or clones used, and the breeding method; (2) the details of subsequent stages of selection and multiplication; (3) evidence of uniformity and stability; and (4) the type and frequency of variants during reproduction and multiplication and state how these variants may be identified
- 18b. Give a summary of the variety's distinctness. Clearly state how this application variety may be distinguished from all other varieties in the same crop. If the new variety is most similar to one variety or a group of related varieties:
- (1) identify these varieties and state all differences objectively;
- (2) attach statistical data for characters expressed numerically and demonstrate that these are clear differences; and
- (3) submit, if helpful, seed and plant specimens or photographs (prints) of seed and plant comparisons which clearly indicate distinctness.
- 18c. Exhibit C forms are available from the PVPO Office for most crops; specify crop kind. Fill in Exhibit C (Objective Description of Variety) form as completely as possible to describe your variety.
- 18d. Optional additional characteristics and/or photographs. Describe any additional characteristics that cannot be accurately conveyed in Exhibit C. Use comparative varieties as is necessary to reveal more accurately the characteristics that are difficult to describe, such as plant habit, plant color, disease resistance, etc.
- 18e. Section 52(5) of the Act requires applicants to furnish a statement of the basis of the applicant's ownership. An Exhibit E form is available from the PVPO.
19. If "Yes" is specified (seed of this variety be sold by variety name only, as a class of certified seed), the applicant **MAY NOT** reverse this affirmative decision after the variety has been sold and so labeled, the decision published, or the certificate issued. However, if "No" has been specified, the applicant may change the choice. (See Regulations and Rules of Practice, Section 97.103).
22. See Sections 41, 42, and 43 of the Act and Section 97.5 of the regulations for eligibility requirements.
23. See Section 55 of the Act for instructions on claiming the benefit of an earlier filing date.

21. CONTINUED FROM FRONT (Please provide a statement as to the limitation and sequence of generations that may be certified.)

22. CONTINUED FROM FRONT (Please provide the date of first sale, disposition, transfer, or use for each country and the circumstances, if the variety (including any harvested material) or a hybrid produced from this variety has been sold, disposed of, transferred, or used in the U.S. or other countries.)

SALES: CA: 9/1/03; US 7/10/03

23. CONTINUED FROM FRONT (Please give the country, date of filing or issuance, and assigned reference number, if the variety or any component of the variety is protected by intellectual property right (Plant Breeder's Right or Patent).)

EU: PBR No. EU 13372; granted May 17, 2004

NOTES: It is the responsibility of the applicant/owner to keep the PVPO informed of any changes of address or change of ownership or assignment or owner's representative during the life of the application/certificate. There is no charge for filing a change of address. The fee for filing a change of ownership or assignment or any modification of owner's name is specified in Section 97.175 of the regulations. (See Section 101 of the Act, and Sections 97.130, 97.131, 97.175(h) of the Regulations and Rules of Practice.)

To avoid conflict with other variety names in use, the applicant must check the appropriate recognized authority. For example, for agricultural and vegetable crops, contact: Seed Branch, AMS, USDA, Room 213, Building 306, Beltsville Agricultural Research Center--East, Beltsville, MD 20705. Telephone: (301) 504-8089. <http://www.ams.usda.gov/lsg/seed.htm>

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0055. The time required to complete this information collection is estimated to average 3.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, sexual orientation, marital or family status, political beliefs, parental status, or protected genetic information. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call 202-720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

ST-470 (02-10-2003) designed by the Plant Variety Protection Office with Word 2000. Replaces former versions of ST-470, which are obsolete.

Exhibit A – PVP application for Pepper SBY 28-1172

Origin and Breeding History of Pepper SBY 28-1172

The development of SBY 28-1172 started in the greenhouses of the Seminis breeding station in Honselersdijk (the Netherlands) in 1997. In the R&D variety screening, a plant selection was made of the F1-experimental pepper hybrid SVR 02870258 (Seminis).

This experimental hybrid was made in the spring of 1997:

Female: Seminis line SBR 28-EC119S*HP495,

Male: Seminis line SBY 28-1164.

SBR 28-EC119S*HP495 is a pepper line derived from the blocky red pepper variety "Spirit" of Enza.

We made 8 successive single plant selections, starting with the F1 of Spirit. After those single plant selections, we bulked the seeds of the F9-line and delivered the seeds to the Foundation Seed Department of Seminis, giving the line the code SBR 28-EC119S*HP495.

SBY 28-1164 was derived of a composite cross, we made this cross with the blocky yellow pepper F1 varieties "Kelvin", "Samanta" (both of De Ruiter Seeds) and the long yellow pepper F1 variety "Zarco" (Syngenta).

We made 8 successive single plant selections, starting with this composite cross. After those single plant selections we bulked the seeds of the F9-line and delivered the seeds to the Foundation Seed Department of Seminis, giving the line the code SBY 28-1164.

We made single plant selections until bulking. Those single plant selections were based on self-pollinated plants.

In 1998, the selection was continued in the greenhouses at the Seminis breeding station in Honselersdijk, the Netherlands. The Seminis greenhouses in the Netherlands are heated glasshouses, plants are grown on rock wool slabs and the windows are covered with insect-proof netting. In these greenhouses, two crops per year are grown, so two selection cycles can be organized per year.

From the period 1998 - 2000, during the F2 till F7 generations individual plant selections were made.

The most important selection criteria were:

- Tobamo virus resistance
- fruit setting potential
- compact plant type
- fruit size, shape and uniformity

We used the pathotype P1.2 of Tobamovirus in our resistance screenings. SBY281125 has the L3 (TMV) resistance gene; the presence can be checked using the pathotype P1.2 in the TMV resistance screenings. The L3 gene gives resistance to pathotypes P0, P1 and P1.2 of the five Tobamoviruses:

Tobacco Mosaic Virus (TMV) - pathotype P0

Tomato Mosaic Virus (ToMV) - pathotype P0, P1 or P1.2

Tobacco Mild Green Mosaic Virus (TMGMV) - pathotype P0 or P1,

Pepper Mild Mottle Virus (PMMV) - pathotype P1.2 or P1.2.3

Bell Pepper Mottle Virus (BPeMV) - pathotype P0

The L3 resistance gene gives resistance to all these tobamoviruses except pathotype 1.2.3 of PMMV.

In 2001, the selection was finished at the F8 generation, which was observed to be uniform and stable. The seeds of a group of 10 F8 plants were bulked. These seeds were used as source of SBY 28-1172 and delivered to the Foundation Seed department of Seminis.

The stability of SBY 28-1172 was again checked via grow-outs organized by the Foundation Seed and Stock Seed units. SBY 28-1172 was determined to be uniform and stable within commercially acceptable limits. As is true with other peppers, a small percentage of variants can occur within commercially acceptable limits for almost any characteristic during the course of repeated multiplication. No variants are known to occur, and to date this variety has been observed to be completely uniform and stable for 3 generations.

REVISED – May 2006

Exhibit B – PVP application for Pepper SBY281172 (BN: 188169)**Novelty Statement of Pepper SBY281172**

SBY281172 is blocky bell type pepper, maturing from green to yellow.

To our knowledge, SBY281172 is most similar to the variety Bossanova (of Rijk Zwaan).

There are distinct differences, however, the comparative characteristics that best distinguish the two include, but may not be limited to:

- SBY281172 has a light leaf and stem pubescence compared to Bossanova which has no leaf and stem pubescence.
- SBY281172 has a style length which is the same as the stamen compared to Bossanova which has a style length which is less than the stamen.
- SBY281172 has a medium green (RHS 149A) immature fruit color compared to Bossanova which has a dark green (RHS 143A) immature fruit color.
- SBY281172 has a circular fruit shape compared to Bossanova which has a quadrangular fruit shape.
- SBY281172 has a moderate anthocyanin coloration on the node compared to Bossanova which has a strong anthocyanin coloration on the node.

REVISED 8-May-2006

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0055. The time required to complete this information collection is estimated to average 1.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

**U.S. DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
SCIENCE AND TECHNOLOGY
PLANT VARIETY PROTECTION OFFICE
BELTSVILLE, MD 20705**

Exhibit C



**OBJECTIVE DESCRIPTION OF VARIETY
Pepper (Capsicum spp.)**

NAME OF APPLICANT (S) Seminis Vegetable Seeds, Inc.	TEMPORARY OR EXPERIMENTAL DESIGNATION	VARIETY NAME SBY 281172
ADDRESS (Street and No. or RD No., City, State, Zip Code, and Country) 2700 Camino del Sol Oxnard, CA 93030-7967		FOR OFFICIAL USE ONLY PVPO NUMBER 200400259

In the spaces on the left, enter the appropriate numbers that describe the characteristics of the application variety. On the right, enter the appropriate numbers that describe the characteristics of the most similar comparison variety. Right justify whole numbers by adding leading zeros if necessary. The variety that you choose for comparison should be the most similar one in terms of overall morphology, background and maturity. The comparison variety should be grown in field trials with the application variety for 2-3 location/years (environments) in the region and season of best adaptability. At least one year of trials should be conducted within the United States of America. In general, measurements of quantitative traits should be taken from one trial on 15-25 randomly selected plants or plant parts to obtain averages and statistics that describe a typical field of the variety. (Form technical content last updated Jan. 2003.)

Application Variety		Comparison Variety	
1. SPECIES: Naktuinbouw Location and Dates of Test Roelofarendsveen, The Netherlands 1 = C. annuum 2 = C. frutescens 3 = C. baccatum 4 = C. chinense 5 = Other (specify) _____		Comparison Variety Name <u>Bossanova</u> Comparison Variety Source _____ 1 Species (Specify if choice is 5 _____)	
2. MATURITY (In Region of Best Adaptability): <u>082</u> Days from transplanting until mature green stage <u>099</u> Days from transplanting until mature red or yellow stage <u>142</u> Days from direct seeding until mature green stage <u>161</u> Days from direct seeding until mature red or yellow stage		<u>086</u> Days from transplanting until mature green stage <u>100</u> Days from transplanting until mature red or yellow stage <u>140</u> Days from direct seeding until mature green stage <u>154</u> Days from direct seeding until mature red or yellow stage	
3. PLANT: 1 Plant Habit: 1=Compact 2=Semi-spreading 3=Spreading 4=Other _____ - Plant Attitude: 1=Erect 2=Semi-erect 3=Prostrate 4=Other _____ <u>120.0</u> cm Plant Height <u>050.0</u> cm Plant Width <u>030.0</u> cm Length of Stem from Cotyledons to First Flower <u>030.0</u> mm Length of Third Internode (from soil surface) 2 Basal Branches: 1=None 2=Few (2-3) 3=Many (more than 3) 2 Branch Flexibility: 1=Willowy (Cayenne Long Red) 2=Rigid (Yolo Wonder L) 2 Stem Strength (Breakage Resistance): 1=Weak 2=Intermediate 3=Strong		1 Plant Habit (specify if choice is 4 _____) - Plant Attitude (specify if choice is 4 _____) <u>115.0</u> cm Plant Height <u>045.0</u> cm Plant Width <u>027.2</u> cm Length of Stem Cotyledons to First Flower <u>040.0</u> mm Length of Third Internode (from soil surface) 2 Basal Branches 2 Branch Flexibility 2 Stem Strength (Breakage Resistance)	
Application Variety		Comparison Variety	

6

Application Variety	Comparison Variety
<p>4. LEAVES :</p> <p><u>125.0</u> mm Leaf Width</p> <p><u>205.0</u> mm Leaf Length</p> <p><u>120.0</u> mm Petiole Length</p> <p><u>2</u> Mature Leaf Shape: 1=Lanceolate 2=Elliptic</p> <p><u>3</u> Leaf Color: 1=Light Green 2=Medium Green 3=Dark Green 4= Purple</p> <p>Color Chart Name <u>RHS</u> Code <u>139A</u></p> <p><u>2</u> Leaf and Stem Pubescence: 1=Absent (Yolo Wonder L) 2=Light 3=Moderate (Serrano) 4=Heavy (Chili Piquin)</p> <p><u>4</u> Margin Undulation: 1=Absent 2=V. Weak 3=Weak 4=Medium 5=Strong 6=V. Strong</p> <p><u>4</u> Blistering: 1=Absent 2=Very Weak 3=Weak 4=Medium 5=Strong 6=Very Strong</p>	
<p><u>107.0</u> mm Leaf Width</p> <p><u>188.0</u> mm Leaf Length</p> <p><u>095.0</u> mm Petiole Length</p> <p><u>2</u> Mature Leaf Shape</p> <p><u>3</u> Leaf Color (Specify if choice is 5 _____)</p> <p>Code <u>135A</u></p> <p><u>1</u> Leaf and Stem Pubescence</p> <p><u>4</u> Margin Undulation</p> <p><u>4</u> Blistering</p>	
<p>5. FLOWERS :</p> <p><u>2</u> Number of Flowers per Leaf Axil</p> <p><u>6</u> Number of Calyx Lobes</p> <p><u>6</u> Number of Petals</p> <p><u>30.0</u> mm Flower Diameter</p> <p><u>1</u> Corolla Color: 1=White 2=Purple 3=Other (Specify) _____</p> <p><u>1</u> Corolla Throat Markings: 1=Yellow (Tan) 2=Purple 3=Other (Specify) _____</p> <p><u>2</u> Anther Color: 1=Yellow 2=Purple 3=Other (Specify) _____</p> <p><u>2</u> Style Length: 1=Less Than Stamen 2=Same as Stamen 3=Exceeds Stamen</p> <p><u>-</u> Self-Incompatibility: 1=Absent 2=Present</p>	
<p><u>2</u> Number of Flowers per Leaf Axil</p> <p><u>6</u> Number of Calyx Lobes</p> <p><u>6</u> Number of Petals</p> <p><u>32.0</u> mm Flower Diameter</p> <p><u>1</u> Corolla Color (Specify if choice is 3 _____)</p> <p><u>1</u> Corolla Throat Markings (Specify if choice is 3 _____)</p> <p><u>2</u> Anther Color (Specify if choice is 3 _____)</p> <p><u>1</u> Style Length</p> <p><u>-</u> Self Incompatibility</p>	
<p>6. FRUIT :</p> <p><u>01</u> Group: 1=Bell (Yolo Wonder L) 8=Small Hot (Serrano) 9=Cherry (Sweet Cherry) 10=Short Wax (Floral Gem) 11=Long Wax (Sweet Banana) 12=Tabasco (Tabasco) 13=Habanero (Scotch Bonnet) 14=Other</p> <p><u>2</u> Immature Fruit Color: 1=Light Green (Cubanelle) 5=Yellow (Yellow Belle) 2=Medium Green (Long Thin Cayenne) 6=Purple (Violetta) 3=Dark Green (Yolo Wonder L) 7=Ivory (Twiggy) 4=Very Dark Green (Ancho Chili) 8=Other</p> <p>Color Chart Name <u>RHS</u> Code <u>149A</u></p> <p><u>3</u> Mature Fruit Color: 1=Red (Yolo Wonder L) 5=Ivory 2=Orange 6=Green (Permagreen) 3=Orange-Yellow (Golden Calwonder) 7=Salmon 4=Brown (Mulatto) 8=Lemon Yellow 9=Other</p> <p>Color Chart Name <u>RHS</u> Code <u>13A</u></p> <p><u>1</u> Pungency: 1=Sweet (Yolo Wonder L) 2=Hot (Jalapeno)</p> <p>_____ mg Capsaicin per gram dry fruit</p> <p>_____ Scoville Units (dry fruit)</p> <p><u>-</u> Flavor: 1=Mild Pepper Flavor 2=Moderate Pepper Flavor 3=Strong Pepper Flavor 4=Other _____</p> <p><u>2</u> Fruit Glossiness: 1=Dull 2=Moderate 3=Shiny</p> <p><u>1</u> Surface Smoothness: 1=Smooth (Yolo Wonder L) 2=Rough (Long Thin Cayenne)</p> <p><u>3</u> Fruit Position: 1=Upright (Santaka) 2=Horizontal 3=Pendent (Jalapeno)</p> <p><u>2</u> Calyx Shape: 1=Cup-shaped (Enveloping Fruit Base) 2=Saucer-shaped (Flat, Non-Enveloping)</p>	
<p><u>01</u> Fruit Group (Specify if choice is 14 _____)</p> <p><u>3</u> Immature Fruit Color (Specify if choice is 8 _____)</p> <p>Code <u>143A</u></p> <p><u>3</u> Mature Fruit Color (Specify if choice is 9 _____)</p> <p>Code <u>17C</u></p> <p><u>1</u> Pungency</p> <p>_____ mg Capsaicin per gram dry fruit</p> <p>_____ Scoville Units (dry fruit)</p> <p><u>1</u> Flavor (Specify if choice is 4 _____)</p> <p><u>2</u> Fruit Glossiness</p> <p><u>1</u> Surface Smoothness</p> <p><u>3</u> Fruit Position</p> <p><u>2</u> Calyx Shape</p>	
<p> </p> <p>Saucer-shape Cupped</p>	
Application Variety Data	Comparison Variety Data

Application Variety Data	Comparison Variety Data
<p>6. FRUIT (continued):</p> <p><u>035.0</u> mm Calyx Diameter</p> <p><u>0077.0</u> mm Fruit Length</p> <p><u>080.0</u> mm Fruit Diameter at Calyx Attachment</p> <p><u>082.0</u> mm Fruit Diameter at Mid-point</p> <p><u>006.0</u> mm Flesh Thickness at Mid-point</p> <p><u>08.3</u> Average Number of Fruits per Plant</p> <p><u>00.0</u> % Large Fruits (Weight Range: <u> </u> to <u> </u>)</p> <p><u>82.0</u> % Medium Fruits (Weight Range: <u>190</u> to <u>235</u>)</p> <p><u>18.0</u> % Small Fruits (Weight Range: <u>130</u> to <u>165</u>)</p> <p><u>195.0</u> gm Average Fruit Weight</p> <p><u>1</u> Fruit Base Shape: 1=Cupped (Yolo Wonder L) 2=Rounded (Jalapeno)</p> <p><u>2</u> Fruit Apex Shape: 1=Pointed (Long Thin Cayenne) 2=Blunt (Yolo Wonder L)</p> <p><u>1</u> Fruit Shape: 1=Bell (Yolo Wonder L) 2=Conical (Pimiento) 3=Elongate (Long Thin Cayenne) 4=Oblong (Jalapeno) 5=Oblate (Sunnybrook) 6=Globe (Red Cherry) 7=Other</p> <p><u>4</u> Fruit Shape (Longitudinal Section, see attached pictures): 1=Flattened 2=Round 3=Heart-shaped 4=Square 5=Rectangular 6=Trapezoid 7=Narrow Triangular 8=Triangular 9=Horn-shaped</p> <p><u>4</u> Fruit Shape (Cross Section, at Level of Placenta): 1=Elliptic 2=Triangular 3=Quadrangular 4=Circular</p> <p><u>1</u> Fruit Set: 1=Scattered 2=Concentrated</p> <p><u>4</u> Intercalary Grooves: 1=Absent 2=Very Shallow 3=Shallow 4=Medium 5=Deep 6=Very Deep</p> <p><u>000.0</u> % Fruits with one locule</p> <p><u>017.0</u> % Fruits with two locules</p> <p><u>075.0</u> % Fruits with three locules</p> <p><u>008.0</u> % Fruits with four locules</p> <p><u>000.0</u> % Fruits with five or more locules</p> <p><u>3.00</u> Average Number of Locules</p> <p><u>035.0</u> mm Pedicel Length</p> <p><u>008.5</u> mm Pedicel Thickness</p> <p><u>2</u> Pedicel Shape: 1=Straight 2=Curved</p> <p><u>2</u> Pedicel Cavity: 1=Absent 2=Present</p> <p><u>04.0</u> mm Depth of Pedicel Cavity</p>	<p><u>032.0</u> mm Calyx Diameter</p> <p><u>0095.0</u> mm Fruit Diameter</p> <p><u>082.0</u> mm Fruit Diameter at Calyx Attachment</p> <p><u>082.0</u> mm Fruit Diameter at Mid-point</p> <p><u>009.0</u> mm Flesh Thickness at Mid-point</p> <p><u>11.8</u> Average Number of Fruits per Plant</p> <p><u>24.4</u> % Large Fruits (Weight Range <u>260</u> to <u>319</u>)</p> <p><u>53.6</u> % Medium Fruits (Weight Range <u>200</u> to <u>260</u>)</p> <p><u>22.0</u> % Small Fruits (Weight Range <u>150</u> to <u>200</u>)</p> <p><u>233.4</u> gm Average Fruit Weight</p> <p><u>1</u> Fruit Base Shape</p> <p><u>2</u> Fruit Apex Shape</p> <p><u>1</u> Fruit Shape (Specify if choice is 7 <u> </u>)</p> <p><u>4</u> Fruit Shape (Longitudinal Section)</p> <p><u>3</u> Fruit Shape (Cross Section)</p> <p><u>1</u> Fruit Set</p> <p><u>4</u> Intercalary Grooves</p> <p><u>000.0</u> % Fruits with one Locule</p> <p><u>002.7</u> % Fruits with two Locules</p> <p><u>054.1</u> % Fruits with three locules</p> <p><u>043.2</u> % Fruits with four locules</p> <p><u>000.0</u> % Fruits with five or more locules</p> <p><u>3.40</u> Average Number of Locules</p> <p><u>041.0</u> mm Pedicel Length</p> <p><u>010.0</u> mm Pedicel Thickness</p> <p><u>2</u> Pedicel Shape</p> <p><u>2</u> Pedicel Cavity</p> <p><u>14.0</u> mm Depth of Pedicel Cavity</p>

Application Variety Data	Comparison Variety Data
7. SEED : <u>005.0</u> mm Seed Cavity Length <u>001.0</u> mm Seed Cavity Diameter <u>037.5</u> mm Placenta Length <u>214</u> Number of Seeds per Fruit <u>13.4</u> gm per 1000 Seeds <u>1</u> Seed Color: 1=Yellow 2=Purple	
8. ANTHOCYANIN (1 = Absent; 2 = Weak; 3 = Moderate; 4 = Strong) : <u>3</u> Seedling Hypocotyl <u>1</u> Stem <u>3</u> Node <u>1</u> Leaf <u>1</u> Pedicel <u>1</u> Calyx <u>1</u> Fruit	
9. DISEASE RESISTANCE (Rate from 1 (most susceptible) to 9 (most resistant); leave blank if not tested; indicate Race or Strain, when known) : A. Viruses: <u> </u> Cucumber Mosaic Virus <u> </u> Curly Top Virus <u> </u> Pepper Mottle Virus <u>1</u> Potato Y Virus <u> </u> Tobacco Etch Virus <u>9</u> Tobacco Mosaic Virus B. Other Diseases and Insects: <u> </u> Anthracnose (<i>Gloeosporium piperatum</i>) <u> </u> Bacterial Spot (<i>Xanthomonas vesicatoria</i>) <u> </u> Cercospora Leaf Spot (<i>Cercospora capsici</i>) <u> </u> Nematode (<i>Meloidogyne incognita acrita</i>) <u> </u> Phytophthora Root Rot (<i>Phytophthora capsici</i>) <u> </u> Ripe Rot (<i>Vermicularia capsici</i>) <u> </u> Southern Blight (<i>Sclerotium rolfsii</i>) <u> </u> Verticillium Wilt (<i>Verticillium dahliae</i>) <u> </u> Other (Specify) _____	
10. COMMENTS (eg. maturity comparisons with other varieties, source of comparison variety seed, etc. Continue in Exhibit D): SBY 28-1172 is also known as (with and without dashes/spaces): • SBY281172 • SBY 281172	

U.S. DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

Application is required in order to determine if a plant variety protection certificate is to be issued (7 U.S.C. 2421). The information is held confidential until the certificate is issued (7 U.S.C. 2426).

EXHIBIT E
STATEMENT OF THE BASIS OF OWNERSHIP

1. NAME OF APPLICANT(S) Seminis Vegetable Seeds, Inc.	2. TEMPORARY DESIGNATION OR EXPERIMENTAL NUMBER	3. VARIETY NAME SBY281172
4. ADDRESS (Street and No., or R.F.D. No., City, State, and ZIP, and Country) 2700 Camino del Sol Oxnard, CA 93030-7967	5. TELEPHONE (Include area code) (805) 647-1572	6. FAX (Include area code) (805) 918-2545
7. PVPO NUMBER 2004 00259		

8. Does the applicant own all rights to the variety? Mark an "X" in the appropriate block. If no, please explain.



YES



NO

9. Is the applicant (individual or company) a U.S. national or a U.S. based company? If no, give name of country.



YES



NO

10. Is the applicant the original owner?



YES



NO

If no, please answer one of the following:

a. If the original rights to variety were owned by individual(s), is (are) the original owner(s) a U.S. National(s)?



YES



NO

If no, give name of country

b. If the original rights to variety were owned by a company(ies), is (are) the original owner(s) a U.S. based company?



YES



NO

If no, give name of country

11. Additional explanation on ownership (Trace ownership from original breeder to current owner. Use the reverse for extra space if needed):

The variety named in this application was developed by the Seminis Vegetable Seeds, Inc., employee (breeder) named below. By agreement between employee and Seminis Vegetable Seeds, Inc., all rights to any invention, discovery, or development made by an employee are assigned to the Company. No rights to such an invention, discovery, or development are retained by the employee.

Employee (Breeder): Jurko Leij

Site Location: Honselersdijk, Netherlands

PLEASE NOTE:

Plant variety protection can only be afforded to the owners (not licensees) who meet the following criteria:

1. If the rights to the variety are owned by the original breeder, that person must be a U.S. national, national of a UPOV member country, or national of a country which affords similar protection to nationals of the U.S. for the same genus and species.
2. If the rights to the variety are owned by the company which employed the original breeder(s), the company must be U.S. based, owned by nationals of a UPOV member country, or owned by nationals of a country which affords similar protection to nationals of the U.S. for the same genus and species.
3. If the applicant is an owner who is not the original owner, both the original owner and the applicant must meet one of the above criteria.

The original breeder/owner may be the individual or company who directed the final breeding. See Section 41(a)(2) of the Plant Variety Protection Act for definitions.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0055. The time required to complete this information collection is estimated to average 0.1 hour per response, including the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, sexual orientation, marital or family status, political beliefs, parental status, or protected genetic information. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.